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Pesticide Regulation And Application.

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Office of the Secretary of State
Tony Miller
Acting Secretary of State

1230 J Street
Sacramento, California 95814

#632

ELECTIONS DIVISION
(916) 445-0820
For Hearing and Speech Impaired
Only:
(800) 833-8683

July 25, 1994

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPONENT (94177)

FROM:


CATHY MITCHELL
INITIATIVE COORDINATOR

Pursuant to Elections Code section 3520(b), you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: PESTICIDE REGULATION AND APPLICATION.
INITIATIVE STATUTE.

SUMMARY DATE: February 14, 1994

PROPONENT: Oscar Singer

county\status.ltr\94177



10

11

12



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

ELECTIONS DIVISION
(916) 445-0820

For Hearing and Speech Impaired
Only:
(800) 833-8683

#632

February 14, 1994

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (94044)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

PESTICIDE REGULATION AND APPLICATION.
INITIATIVE STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required 384,974
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date Monday, 02/14/94
Elec. C., Sec. 3513.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures Monday, 02/14/94
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with
the county. All sections are to be filed at
the same time within each county Wednesday, 07/13/94
Elec. C., Secs. 3513, 3520(a)
 - c. Last day for county to determine total number of
signatures affixed to petition and to transmit total
to the Secretary of State Monday, 07/25/94

(If the Proponent files the petition with the county on a date prior to 07/13/94, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties Wednesday, 08/03/94*

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Friday, 09/16/94

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 08/03/94, the last day is no later than the thirtieth day after the county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 423,472 or less than 365,726 then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 365,726 and 423,472 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures . . . Monday, 09/26/94*

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Tuesday, 11/08/94

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 09/26/94, the last day is no later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient Saturday, 11/12/94*

* Date varies based on receipt of county certification.

PESTICIDE REGULATION AND APPLICATION.
INITIATIVE STATUTE.
February 14, 1994
Page 3

4. The Proponent of the above-named measure is:

Oscar Singer
Remedy Our Laws
1540 Rollins Drive
Los Angeles, California 90063
(213) 263-2640

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 29770; Bilofsky v. Deukmejian (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 41, 41.5, 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 8, 1994 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 30, 1994). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by April 22, 1994. If a 100% check of signatures is necessary, it is advised that the petitions be filed by March 2, 1994.

Sincerely,



CATHY MITCHELL
INITIATIVE COORDINATOR

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
P.O. Box 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555

(916) 324-5490

February 14, 1994

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, CA 95814

FILED
in the office of the Secretary of State
of the State of California
FEB 14 1994
MARCH FONG EU, Secretary of State
By *Ch Mitchell* Deputy

Re: Initiative Title and Summary
Subject: PESTICIDE REGULATION AND APPLICATION. INITIATIVE STATUTE.
File No: SA 93 RF 0048

Dear Mrs. Eu:

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General

KATHLEEN F. DaROSA
Initiative Coordinator

KFD:ms
Enclosures

Date: February 14, 1994
File No: SA93RF0048

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

PESTICIDE REGULATION AND APPLICATION. INITIATIVE STATUTE.

Bans use of pesticides, chemicals for agricultural activity on private and public property without written permission of property owner, except as specified. Makes state, local governments liable for injuries to persons and property resulting from pest control, eradication projects. Prevents state, local officials from declaring state of emergency or adopting emergency regulations in response to pest infestation of plants. Requires creation of a liability fund before any insect eradication program is implemented. Expands disclosure requirements for contents of pesticide products. Directs legislature to create system of criminal, civil penalties for violations of measure. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: One-time state costs between \$600,000 and \$3 million to review pesticide information; ongoing combined state and local costs of about \$1.7 million for pesticide enforcement. Unknown, but potentially significant, state costs for more expensive pest eradication and control efforts. Unknown, but potentially significant, reductions in state revenues from impacts on farm businesses and pesticide sales.

REMEDY OUR LAWS

1540 Rollins Drive
Los Angeles, CA 90063
(213) 263-2640

16 December, 1993

Hon. Dan Lundgren, Esq.
Attorney General - California
1515 K Street, Suite 511-
Sacramento, CA 95814

RECEIVED

DEC 21 1993

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

TO THE HONORABLE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

In accordance with the California Constitution, Article II, Section 10 (d), I request that you prepare a title and summary of the enclosed draft of the proposed state initiative presently entitled:

PESTICIDE REGULATION AND APPLICATION ACT OF 1994.

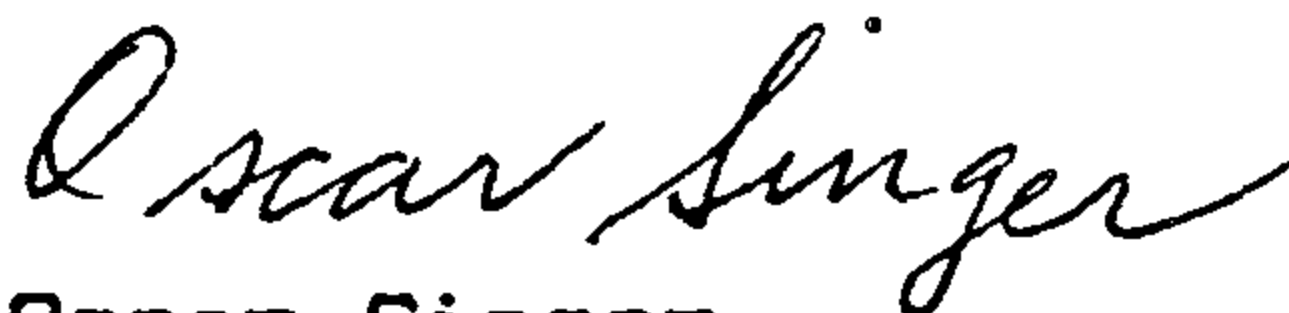
Enclosed is the required Money Order for \$200.00

I hereby warrant, under penalty of perjury, that no appropriation for a particular project contained within the text of the proposed measure, if any, was included in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the proposed measure for the ballot.

A similar initiative was circulated in 1990 which can be referenced at your file number SA90 RF0010. This may be of assistance with preparation of your documents and summary for this new initiative.

Thank you in advance for your kind consideration and cooperation in this matter.

Respectfully yours,



Oscar Singer
Founder - REMEDY OUR LAWS

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA:

We, the undersigned, registered, qualified voters of California, residents of the County (or City and County) specified on the reverse side hereof, hereby propose amendments to the Food and Agricultural, Government, and Public Resources Codes relating to dissemination of pesticides, to increase the proper warnings and information about their use, and to ensure adequate compensation for injuries, in order to protect the health and safety of the people. We petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or any special statewide election held prior to the general election or otherwise provided by law. The proposed statutory changes read as follows:

TITLE ONE

Short Title.

This Act shall be known as the "PESTICIDE REGULATION AND APPLICATION ACT OF 1994".

TITLE TWO

Findings and Declarations.

We, the People of the State of California, do find and declare:

A. The health, safety, and comfort of all people in California is violated by the methods used to control the Mediterranean fruit fly and other insects.

B. The poisoning of water, air, and soil with an accompanying depreciation in wholesomeness of food has led to

31 tasteless tomatoes, questionable peaches, ad nauseam

32 C. Commercial farming has lost its way by spreading
33 poisons. This makes people sick and old prematurely.

34 D. The English language is mocked when secret poisons
35 are called "inert ingredients" and are dumped by aerial and
36 ground spraying.

37 E. The first successful use of sterile male flies was
38 against the screw worm fly in the Southeastern U.S. in 1959,
39 and subsequently of Oriental fruit flies, and other insects.
40 In addition, wasps are being used at this time in Florida to
41 control fruit flies. In addition, there are many other
42 benign biological controls available, plus the heat and/or
43 cold treatment of crops prior to shipment.

44 F. There is a surplus of food grown in California. The
45 state issues Marketing Orders to reduce production of most
46 crops.

47 G. "Organic" farms are damaged by overspray and drift
48 of chemicals at the hands of others. This raises costs that
49 force higher prices for their products. Their crops have more
50 vitamins and minerals than the pesticide laced products.

51 H. A spider-like web of laws has been spun to make
52 this assault with pesticides possible. The first strand in
53 this web is the violation of the Fifth Amendment of the US
54 Constitution wherein no person shall be deprived of life,
55 liberty, or property, without due process of law; nor shall
56 private property be taken for public use, without just
57 compensation. . . .

58 I. A "state of emergency" is used to prevent payment
59 for damages to the People. Fire, flood, storm, earthquake,
60

61 riot, etc. are calamities that require reaction within
62 seconds, hours, or days and can truly be called emergencies.
63 A plant infestation of insects which takes many weeks, or
64 months or years to spread is not a dire emergency. There is
65 time to calculate the damage that a pest may cause and the
66 total cost of combating it. The true total cost must include
67 the damages caused to the People. This is in accord with the
68 time honored medical principle of "First do no harm to the
69 patient." This harm includes trespass, a public nuisance,
70 damages to: paint on cars and buildings, beneficial insects,
71 ecology over large areas, organic growers, all farmers and
72 farm workers, the health of persons with compromised immune
73 systems (such as children, the aged, asthmatics, chemically
74 sensitized individuals, etc.), and weakens the immune system
75 of normally healthy people.

76 Therefore a plant infestation must be removed from the
77 category of "state of emergency". It is in the public
78 interest that the farming community be protected from harm,
79 but it is also in the public interest that other persons not
80 be injured unfairly in a rescue attempt. For every wrong
81 there is a remedy. If there are injuries to others, then the
82 state shall pay the true costs by reimbursing them also. No
83 one should suffer by the act of another. He who takes the
84 benefit must bear the burden.

85 Accordingly, We the People of the State of California, do
86 hereby enact the PESTICIDE REGULATION AND APPLICATION ACT OF
87 1994, and do reaffirm the Fifth Amendment to the United
88 States Constitution in order to protect the health and safety
89 of People from poison spray without permission; to prevent a
90

91 : plant infestation from being called "a state of emergency";
92 : to enforce the use of biological control organisms, such as
93 : sterile insects, wasps, nematodes, etc. for pest invasions;
94 : to enforce the use of "cold storage" or the Mexican "hot
95 : water" treatment used on mangoes to clean out insect
96 : infestation prior to shipping; to make "organic" farming more
97 : productive; and which in turn will accelerate the cleansing
98 : of the land, sea, and air of the State of California.

99 : TITLE THREE

100 : Effect of Definitions.

101 : Unless the context requires otherwise, the definitions in
102 : this chapter govern the construction of the "PESTICIDE
103 : REGULATION AND APPLICATION ACT OF 1994".

104 : a. "Agricultural activity" shall include, but not be
105 : limited to: the cultivation and tillage of the soil,
106 : dairying, the production, cultivation, growing, and
107 : harvesting of any agricultural commodity including timber,
108 : viticulture, apiculture, or horticulture, including
109 : preparation for market, delivery to storage or to market, or
110 : to carriers for transportation to market.

111 : b. "Injury" means death, adverse effects causing
112 : sickness, damage to or loss of property, trespass, or public
113 : nuisance that a person may be forced to suffer.

114 : c. "Organic" is defined in Section 26569.11 of the
115 : Health and Safety Code.

116 : d. "Pesticide" means any economic poison, as defined
117 : in Section 12753 of the Food and Agriculture Code.

118 : e. "Public entity" includes the State, the Regents of
119 : the University of California, a county, city, district,
120 :

121 public authority, public agency, and any other political
122 subdivision or public corporation in the State

123 f. "Public nuisance" comprehends an act which affects
124 at the same time an entire community or neighborhood which is
125 injurious to health or creates atmospheric pollution or is an
126 annoyance or is offensive to the senses or interferes with
127 interests of community and the comfortable enjoyment of life
128 or property or convenience of the general public. Any private
129 party shall have a cause of action for nuisance even though
130 the general public suffers the same kind of injury.

131 g. "Spray adjuvant" is defined in Section 12885 of the
132 Food and Agricultural Code.

133 TITLE FOUR

134 Changes in GOVERNMENT CODE.

135 1. Section 8558, General Definitions.

136 Degrees of emergency, paragraph (b), "State of emergency" is
137 amended by first deleting the phrase "plant or animal" and
138 then adding the words as shown.

139 (b). "State of emergency" means the duly proclaimed
140 existence of conditions of disaster or of extreme peril to
141 the safety of persons and property within the state caused by
142 such conditions as air pollution, fire, flood, storm,
143 epidemic, riot; drought, sudden and severe energy shortage,
144 ~~plant-or-animal~~ infestation or disease of animals, but not to
145 ~~include any kind of infestation of plants,~~ the Governor's
146 warning of an earthquake or volcanic prediction, or an
147 earthquake, or other conditions, other than conditions
148 resulting from a labor controversy or conditions causing "a
149 state of war emergency", which conditions by reason of their
150

151 magnitude, are or are likely to be beyond the control of the
152 services, personnel, equipment, and facilities of any single
153 county, city and county, or city and require the combined
154 forces of a mutual aid region or requires extraordinary
155 measures beyond the authority vested in the California Public
156 Utilities Commission.

157 (c). "Local emergency" means the duly proclaimed
158 existence of conditions of disaster or of extreme peril to
159 the safety of persons and property within the territorial
160 limits of a county, city and county, or city, caused by such
161 conditions as air pollution, fire, flood, storm, epidemic,
162 riot, drought, sudden and severe energy shortage, ~~plant-or~~
163 ~~animal~~ infestation or disease of animals, but not to include
164 any kind of infestation of plants, the Governor's warning of
165 an earthquake or volcanic prediction, or an earthquake or
166 other conditions, other than conditions resulting from a
167 labor controversy which conditions are or are likely to be
168 beyond the control of the services, personnel, equipment, and
169 facilities of that political subdivision and require the
170 combined forces of other political subdivisions to combat, or
171 with respect to regulated energy utilities, a sudden and
172 severe energy shortage requires extraordinary measures beyond
173 the authority vested in the California Public Utilities
174 Commission.

175 2. The following shall be added to Section 8655
176 **Privileges and Immunities:**

177 (a). In the event of a discretionary decision to
178 control or eradicate an insect infestation by any means, then
179 the state or its political subdivisions shall be liable for
180

181 injuries to public and private entities based upon the
182 exercise or performance of this discretionary function or
183 duty on the part of a state or local agency or any
184 independent contractor hired by the state or any employee of
185 the state or its political subdivisions in carrying out the
186 provisions of this chapter. Prior to making such a
187 discretionary decision a fund shall be established from the
188 general or emergency funds to pay for all successful claims
189 created by this decision.

190 (b). For any other discretionary decision, the state or
191 its political subdivisions shall not be liable for any claim
192 based upon the exercise or performance, or the failure to
193 exercise or perform, a discretionary function or duty on the
194 part of a state or local agency or any employee of the state
195 or its political subdivisions in carrying out the provisions
196 of this chapter.

197 3. The following shall be added to Section 11346.1.
198 Application of article and certain sections; emergency
199 regulations or repeals; building standards:

200 (i). Notwithstanding any other provision of law, no
201 emergency regulation shall be declared with respect to the
202 controlling or eradication of an insect infestation affecting
203 agricultural activity.

204 TITLE FIVE

205 The following changes shall be made in the Food and
206 Agriculture Code.

207 1. Section 11510, Review of commissioner's regulations
208 shall be amended as follows:

209 The regulations of the commissioner are subject to
210

211 review and approval by the director as to reasonableness, and
212 if approved they shall be filed with the director. The
213 regulations shall become effective 30 days after they are
214 approved by the director unless they are designated as
215 emergency regulations: to control disease of humans or
216 animals only.

217 2. Section 11511, Emergency regulations, shall have the
218 following added:

219 The commissioner shall not have the authority to
220 declare an emergency regulation for the control or
221 eradication of any insect infestation affecting agricultural
222 activity.

223 3. Section 12821, Applicant's statement of brands,
224 trademarks and kinds of economic poisons: formula shall be
225 amended as follows:

226 (a). Each applicant for a certificate of registration
227 shall also file a statement of every brand, trademark, and
228 kind of economic poison which the applicant intends to
229 manufacture or sell, the correct name and percentage of each
230 active ~~-ingredient-in-it,-and-the-total-percentage-of-inert~~
231 ~~ingredients-which-are-contained-in-it.-The-director,-whenever~~
232 ~~he-or-she-deems-it-necessary-for-the-effective-administration~~
233 ~~of-this-chapter,-may-require-the-submission-of-the-complete~~
234 ~~formula-for-the-economic-poison~~ and inert ingredient which is
235 contained in it. The complete formula, its antidotes, and a
236 list of symptoms caused by an overdose shall be submitted for
237 every economic poison. All existing certificates of
238 registration shall comply with this section, or their
239 registration shall be abrogated 90 days after this statute
240

241 goes into effect.

242 (b). Notwithstanding (a) above, the inert ingredients
243 of pesticides used as a component of a specific insect
244 attractant that may be placed in traps on trees or on poles
245 or on cards strategically located, will not require the
246 naming of its inert ingredients. This is to protect trade
247 secrets of pesticides used in tiny amounts and affecting only
248 a specific insect pest.

249 (c). Whereas the "inert" ingredients used in malathion
250 in 1990 were found to have a greater killing power than the
251 malathion itself so that the pesticide was not labeled with
252 the names of the main active ingredients as required by law;
253 and whereas poisons which are sprayed on or near human
254 populations must have each ingredient clearly identified as
255 to its killing power; and whereas the use of the word "inert"
256 to describe deadly poisons is an intentional deception of the
257 public; and whereas the same perpetrators of this intentional
258 deception are falsely claiming that food costs will increase,
259 the following shall be added to the law:

260 Every state entity, its political subdivisions, or
261 agency, or private contractor, or person working for the
262 state shall be prohibited from purchasing or using any
263 pesticide or economic poison that does not give the
264 information requested in (a) above to all persons, public or
265 private, requesting this information. This is in accordance
266 with the time honored right of a consumer to refuse to
267 purchase any product, whether it contains trade secrets or
268 not, when it does not meet the requirements set by the
269 consumer of the product.

270

271 4. Section 12823, Change in inert ingredients is amended
272 as follows:

273 ~~A change in the name or percentage, or both, of an~~
274 ~~inert ingredient is not a change in composition of the~~
275 ~~economic poison which requires a new registration unless the~~
276 ~~change in inert material results in a change in the use or~~
277 ~~application of the economic poison.~~ A change in the name of
278 an inert ingredient is not a change in composition of the
279 economic poison which requires a new registration.

280 A change in the percentage of an inert ingredient shall
281 require a new registration, since an inert ingredient is more
282 deadly many times than the so-called active ingredient.

283 5. Section 12884, Toxic preparations; statement of
284 ingredient percentages shall be amended as follows:

285 (a). Toxic preparations; statement of ingredient
286 percentages.

287 If the preparation is highly toxic to man, as determined by
288 regulations of the director, an economic poison is misbranded
289 if the label fails to state the name and percentage of each
290 active ingredient together with the names and percentages of
291 the inert ingredients in the economic poison.

292 6. Section 12885, Spray adjuvant; principal functioning
293 agents shall be amended as follows:

294 (a). Spray adjuvant; principal functioning agents.

295 In addition to the other provisions of this article, a spray
296 adjuvant that contains toxic ingredients is misbranded if the
297 label fails to state the type or function and the names of
298 ~~the principal functioning agents.~~ ~~If more than three~~
299 ~~functioning agents are present, only the three principal ones~~

301 need-to-be-named all toxic ingredients.

302 (b). Every state entity, its political subdivisions, or
303 agency, or private contractor, or person working for the
304 state shall be prohibited from purchasing or using any spray
305 adjuvant that does not give the information requested in (a)
306 above to all persons, public or private, requesting this
307 information.

308 7. Section 12972, shall be amended as follows: Drift
309 and overspray prevention.

310 (a). The use of any pesticide or chemical used for
311 agricultural activity whether by aerial spraying or ground
312 application, by any public or private entity shall be in such
313 a manner as to prevent ~~substantial~~ any drift to nontarget
314 areas. Chemical drift and pollution occurs from many other
315 sources, other than agriculture, but they shall be exempt
316 from the requirements of this statute. Liability for all
317 injuries shall be enforced including the right to payment for
318 the harm to beneficial biological life and payment for all
319 crops that cannot be sold as raised under "organic"
320 conditions due to the overspray or drift on other private or
321 public properties outside the target area.

322 (b). An exception to the prohibition of drift shall be
323 permitted when smoke drifts from smoke pots used by farmers
324 to keep the crops from freezing in winter.

325 8. The following shall be added to the Code:

326 Section 12972.1. No dissemination of poisons without
327 permission.

328 (a). When used for agricultural activity, no pesticide
329 or chemical shall be placed on any public or private property
330

331 by aircraft or by any other means, without the written
332 permission of the owner or manager of the property.

333 (b). Any private or public entity violating this
334 section shall be liable for all injuries created against any
335 private person or public entity. Each incident of a violation
336 shall be considered as a separate cause of action by the
337 injured party.

338 (c). Aerial or ground distribution shall be permitted
339 when the material consists of biological control organisms
340 such as sterile insects, beneficial bacteria and viruses, or
341 beneficial insect predators. In no event, shall any pesticide
342 or chemical distribution be made prior to an application of
343 biological control methods, since this would senselessly
344 destroy beneficial life-forms.

345 (d). Aerial or ground spraying can be used if necessary
346 to control or stop a fire.

347 (e). No exception shall be made for any type of fruit
348 fly since they can be completely controlled by sterile male
349 flies in sufficient quantity, plus the use of wasps,
350 nematodes, etc. An exception permitting ground spraying for
351 all other pest infestations as described in Section 5401 et
352 al. of the Food and Drug Code may be used only after
353 biological controls, wasps, nematodes, viruses, fruit
354 stripping, host plant destruction, plastic sheets to cover
355 the ground to interfere with the life cycle of burrowing
356 insects, or injection of water underneath plastic sheets to
357 steam the infestation by solar means out of existence, or
358 vacuuming, or pheromones, or gene-splicing, etc. have
359 actually been used first.
360

361 (f).An exception to ground spraying shall be permitted
362 for the control of noxious weeds as described in sections
363 7201 to 7207 of the Food and Agricultural Code.

364 TITLE SIX

365 The following shall be added to the Public Resources Code,
366 Section 21060.3, Emergency:

367 Notwithstanding the above, an insect infestation of
368 agricultural products requiring eradication or control shall
369 not be declared to be an Emergency.

370 TITLE SEVEN

371 Division 13.3 is added to the Public Resources Code, to read:
372 DIVISION 13.3. ENFORCEMENT OF PESTICIDE REGULATION AND
373 APPLICATION ACT OF 1994.

374 21178. (a). In addition to any other remedy available at
375 law or in equity, any provision of the "PESTICIDE REGULATION
376 AND APPLICATION ACT OF 1994" that requires or forbids a
377 private party to take or refrain from action directly
378 affecting the environment or human health may be enforced
379 pursuant to this section. Any person, including any
380 governmental agency, who has violated, is violating, or is
381 threatening to violate any such provision may be enjoined,
382 and a civil penalty may be imposed, in any court of competent
383 jurisdiction.

384 (b). An action pursuant to this section may be brought by
385 the Attorney General in the name of the People of the State
386 of California, or by any district attorney, or by any city
387 attorney of a city or city and county having a population in
388 excess of 750,000, or with the consent of the district
389 attorney by any city attorney or city prosecutor.
390

391 (c).An action pursuant to this section may be brought by
392 any person acting in the public interest if: (1) the action
393 is commenced more than sixty days after the person has given
394 written notice of the violation which is the subject of the
395 action to the Attorney General and the district attorney and
396 any city attorney in whose jurisdiction the violation is
397 alleged to occur, and to the alleged violator, and (2) none
398 of such public officials has commenced and is diligently
399 prosecuting an action against such violation. The limitations
400 specified in this subsection do not apply to an action
401 brought against a governmental agency or official.

402 (d). If a public official undertakes a prosecution
403 pursuant to the written notice described in subdivision
404 (c)(1), before the noticing party brings an action under
405 subdivision (c), the person who gave the notice shall be
406 permitted to intervene in the action on such terms as the
407 court finds appropriate.

408 (e). The Legislature shall establish appropriate
409 penalties, civil and criminal, for violations of the
410 provisions of the Act for which a penalty is not specified.
411 These penalties need not be uniform. These penalties shall
412 provide that in any civil action brought pursuant to
413 subdivision (c) any prevailing plaintiff and intervener, as
414 well as appropriate attorney's fees authorized by any other
415 provision of law. An intervener may receive attorney's fees
416 upon a finding by the court that the efforts of the
417 intervener substantially assisted the court in reaching a
418 just resolution of the case. In such event, the court shall
419 divide the portion of civil penalties awarded, and shall
420

award attorney's fees, taking into account the respective contributions of the parties to the success of the action and the need for intervention.

21179. All laws and regulations of this State designed to protect the food supply or environment, including this Act, shall be liberally construed to achieve those purposes.

TITLE EIGHT

Governor's responsibility The governor is accountable to the People of the State of California for the complete, timely and effective implementation of the Act. The Governor shall therefore annually report to the People on the status of implementation, beginning October 1, 1991.

TITLE NINE

Technical Matters

(a). If any section, sentence, clause, or part of this act is for any reason held to be unconstitutional, such decision shall not affect remaining portions of this Act. We, the people, hereby declare that we would have passed this Act and each section, sentence, clause, and part of this Act despite the fact that one or more sections, sentences, clauses, or parts of this Act is declared unconstitutional.

(b). This Act shall be liberally construed and applied in order to fully promote its underlying purposes, so that if more than one construction of a particular provision is possible, the one which more fully accomplishes the purposes of this act shall be applicable.

(c). Any regulation adopted by an agency, department or official charged with enforcing any provision of this Act is not subject to article 6, starting with Section 11349 et al,

451 : of the Government Code. Any such regulation shall include a
452 : statement as to the basis upon which it is predicated.

453 : (d). All references to statutes or regulation in this act
454 : are to the text thereof in effect December 16, 1993, unless
455 : changes to those statutes or regulations further the purpose
456 : of this Act. In that event, this act shall be interpreted to
457 : refer to the amended statute or regulation.

458 : (e). Nothing in this Act shall diminish any legal
459 : obligation otherwise imposed by common law, statute or
460 : regulation, nor enlarge any defense in any action to enforce
461 : that legal obligation. Any penalties or sanctions imposed
462 : under this act shall be in addition to any penalties or
463 : sanctions otherwise prescribed by law.

464 : (f). For purposes of this Act, "person" shall have the
465 : same meaning as in Section 26024 of the Health and Safety
466 : Code, and shall also include the United States, and its
467 : agencies and officials to the extent constitutionally
468 : permissible.

469 : (g)(1). Any action or proceeding to attack, review, set
470 : aside, void or annul a determination, finding, or decision,
471 : including a failure to act, of any public agency, made as a
472 : result of a proceeding in which by law a hearing is required
473 : to be given, evidence is required to be taken and discretion
474 : in the determination of facts is vested in the agency, on the
475 : grounds of non-compliance with the provisions of this Act,
476 : shall be in accordance with Section 1094.5 of the Code of
477 : Civil Procedure. In any such action, the court shall not
478 : exercise its independent judgment on the evidence, but shall
479 : only determine whether the act or decision is supported by
480 :

481 : substantial evidence in light of the whole record.

482 : (2). In an action other than one under subdivision (1),
483 : the inquiry shall extend only to whether there was a
484 : prejudicial abuse of discretion. Abuse of discretion is
485 : established if the agency has not proceeded in a manner
486 : required by law or if the determination or decision is not
487 : supported by substantial evidence.

488 :
489 : REMEDY OUR LAWS

490 : *Oscar Singer*
Oscar Singer

491 : 1540 Rollins Drive

492 : Los Angeles, CA 90063

493 :
494 : (213) 263-2640

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496 :
497 : S.A.F.E.

498 : Safe Alternatives for Fruit Fly Eradication
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